

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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JACOB LOFARO, PPA NICOLE)	
LOFARO,)	
)	
Plaintiffs,)	
)	
V.)	Civil Action No. 04-11297-MLW
)	
DEBORAH BRADLEY, LOUIS LAZ,)	
and ASSOCIATES IN OBSTETRICS)	
& GYNECOLOGY,)	Formerly: Essex County
)	Superior Court
Defendants.)	Civil Action No.
<hr/>)	03-536

**MOTION TO SUBSTITUTE THE UNITED STATES AS PROPER
PARTY DEFENDANT FOR LOUIS LAZ, M.D.**

The United States of America, on behalf of the defendant, Louis Laz, M.D., by and through its attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts, pursuant to 28 U.S.C. § 2679(d), hereby respectfully requests that he be dismissed as a named defendant in this matter and that this action be deemed an action against the United States.

In support of this motion, the defendant states that at the time of the acts alleged in the complaint, he was a federal employee of the Department of Health and Human Services, Public Health Service, and was in the course and scope of his employment pursuant to the Federally Supported Health Care Centers Assistance Act of 1992 (Pub.L. 102-501) and 42 U.S.C. § 233(g). As such, any claim for negligence falls within the Federal Tort

Claims Act ("FTCA"), 28 U.S.C. §§ 1346(b) and 2671, et seq., and the exclusive remedy for the plaintiff in this case is against the United States of America. 28 U.S.C. § 2679. Therefore, the only proper party defendant is the United States. The defendant relies upon the Certificate of the United States Attorney a copy of which is filed as Exhibit B to the Memorandum in Support of this Motion.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

Dated: June 14, 2004

/S/ Christopher R. Donato
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U.S. Attorney's Office
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CERTIFICATE OF SERVICE

I hereby certify that on this day service of the foregoing Motion to Substitute the United States as the Proper Party Defendant for Louis Laz, M.D. has been made upon the following by depositing a copy in the United States mail, postage prepaid to:

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Dated: June 14, 2004

/S/ Christopher R. Donato
Christopher R. Donato
Assistant U.S. Attorney